

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

CHARLES L. BURTON, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:19-cv-00242-RAH
	)	
JEFFERSON S. DUNN, Commissioner,	)	
Alabama Department of Corrections,	)	
in his official capacity,	)	
	)	
Defendant.	)	

**DEFENDANT’S STATUS REPORT**

Comes now Jefferson S. Dunn, Commission of the Alabama Department of Corrections, Defendant in the above styled cause, and in accordance with this Court’s order of April 1, 2021 (Doc. 83), submits the following status report:

1. On April 1, this Court ordered Defendant to include in its status report “information regarding the ADOC’s progress in drafting a protocol for nitrogen hypoxia executions and whether the ADOC anticipates that an inmate’s chosen spiritual advisor will be included or excluded from the execution chamber during any such execution.” (*Id.* at 2).

2. The ADOC is nearing completion of the initial physical build for the nitrogen hypoxia system and its safety measures. Once the build is completed, a

safety expert will make a site visit to evaluate the system and look for any points of concern that need to be addressed.

3. At this time, because the system has not yet been evaluated, the ADOC has not produced a nitrogen hypoxia execution protocol. The protocol will not be written until the ADOC is satisfied that its system is ready.

4. The ADOC has not made a final decision as to whether a spiritual advisor can be safely accommodated in the execution chamber during a hypoxia execution.

Respectfully submitted,

Steve Marshall  
*Alabama Attorney General*

/s/ Lauren A. Simpson  
Lauren A. Simpson  
*Alabama Assistant Attorney General*  
Counsel for Defendant

## **CERTIFICATE OF SERVICE**

I certify that on June 8, 2021, I served a copy of the foregoing upon counsel for the Plaintiff by filing the same via the Court's CM/ECF system, which shall cause the same to be electronically transmitted to: **Anand Agneshwar, Spencer J. Hahn, John Anthony Palombi, Matt D. Schulz, Paige Sharpe, James A. Sonne, Anna Thompson, and Zeba A. Huq.**

Respectfully submitted,

Steve Marshall  
*Alabama Attorney General*

/s/ Lauren A. Simpson  
Lauren A. Simpson  
*Alabama Assistant Attorney General*  
Counsel for Defendant

### OF COUNSEL:

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